

Ahilan T. Arulanantham (SBN 237841)  
arulanantham@law.ucla.edu  
Stephany Martinez Tiffer (SBN 341254)  
martineztiffer@law.ucla.edu  
CENTER FOR IMMIGRATION LAW AND  
POLICY, UCLA SCHOOL OF LAW  
385 Charles E. Young Dr. East  
Los Angeles, CA 90095  
Telephone: (310) 825-1029

Emilou MacLean (SBN 319071)  
emaclean@aclunc.org  
Michelle (Minju) Y. Cho (SBN 321939)  
mcho@aclunc.org  
Amanda Young (SBN 359753)  
ayoung@aclunc.org  
ACLU FOUNDATION  
OF NORTHERN CALIFORNIA  
39 Drumm Street  
San Francisco, CA 94111-4805  
Telephone: (415) 621-2493  
Facsimile: (415) 863-7832

Attorneys for Plaintiffs

*[Additional Counsel Listed on Next Page]*

BRETT A. SHUMATE  
Assistant Attorney General  
Civil Division  
YAAKOV M. ROTH  
Principal Deputy Assistant Attorney General  
WILLIAM H. WEILAND  
Acting Assistant Director  
ERIC SNYDERMAN  
LAUREN BRYANT  
CATHERINE ROSS  
JEFFREY HARTMAN  
SHELBY WADE  
ILANA KRAMER  
DANIEL CAPPELLETTI  
Trial Attorneys  
U.S. Department of Justice, Civil Division  
Office of Immigration Litigation  
General Litigation and Appeals Section  
P.O. Box 868, Ben Franklin Station  
Washington, DC 20044

Attorneys for Defendants

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

NATIONAL TPS ALLIANCE, *et al.*,  
Plaintiffs,  
  
v.  
  
KRISTI NOEM, in her official capacity as  
Secretary of Homeland Security, *et al.*,  
Defendants.

Case No. 3:25-cv-05687-TLT-SK

**STIPULATED CLAWBACK AGREEMENT  
AND FEDERAL RULE OF EVIDENCE  
502(d) ORDER**

Additional Counsel for Plaintiffs

Jessica Karp Bansal (SBN 277347)  
jessica@ndlon.org  
Lauren Michel Wilfong (*Pro Hac Vice*)  
lwilfong@ndlon.org  
NATIONAL DAY LABORER  
ORGANIZING NETWORK  
1030 S. Arroyo Parkway, Suite 106  
Pasadena, CA 91105  
Telephone: (626) 214-5689

Eva L. Bitran (SBN 302081)  
ebitran@aclusocal.org  
ACLU FOUNDATION  
OF SOUTHERN CALIFORNIA  
1313 West 8th Street  
Los Angeles, CA 90017  
Telephone: (213) 977-5236

Erik Crew (*Pro Hac Vice*)  
ecrew@haitianbridge.org  
HAITIAN BRIDGE ALLIANCE  
4560 Alvarado Canyon Road, 1H  
San Diego, CA 92120  
Telephone: (949) 603-7411

1 The Court hereby orders pursuant to Rule 502(d) of the Federal Rules of Evidence, Rule  
2 26(b) of the Federal Rules of Civil Procedure, and the Court's inherent authority that the  
3 production of a document, or part of a document, shall not constitute a waiver of any privilege or  
4 protection as to any portion of that document, or as to any undisclosed privileged or protected  
5 communications or information concerning the same subject matter, in this or in any other  
6 proceeding. This Order applies to attorney client privilege, work-product protection as defined by  
7 Federal Rule of Civil Procedure Rule 26(b), governmental privileges, or any other applicable  
8 privilege. Nothing in this Order shall constitute an admission that any document disclosed in this  
9 litigation is subject to any of the foregoing privileges or protections, or that any party is entitled to  
10 raise or assert such privileges. Additionally, nothing in this Order shall prohibit parties from  
11 withholding from production any document covered by any applicable privilege or other  
12 protection.

13 The parties intend that this stipulated order shall displace the provisions of Fed. R. Evid.  
14 502(b)(1) and (2). That is, the disclosure of privileged or protected information, as described  
15 above, in this litigation shall not constitute a subject matter waiver of the privilege or protection in  
16 this or any other federal or state proceeding, regardless of the standard of care or specific steps  
17 taken to prevent disclosure. However, nothing in this Order shall limit a party's right to conduct a  
18 pre-production review of documents as it deems appropriate.

## 19 **I. DEFINITIONS**

- 20 1. "Document," as used herein, includes all items listed in Fed. R. Civ. P. 34(a)(1)(A) and (B).  
21 2. "Documents Produced," as used herein, includes all documents made available for review or  
22 produced in any manner during this litigation.

## 23 **II. PROCEDURES**

24 The procedures applicable to a claim of privilege on a produced document and the resolution  
25 thereof shall be as follows:

- 26 1. If a party discovers a document, or part thereof, produced by another party that is privileged  
27 or otherwise protected, the receiving party shall promptly notify the producing party and must then  
28 return the document or destroy it and certify that it has been destroyed to the producing party. The  
STIP. CLAWBACK AGREEMENT AND FRE 502(d) ORDER - 3:25-cv-05687-TLT-SK

1 receiving party must also promptly identify, sequester, and destroy any notes taken about the  
2 document. Nothing in this Order is intended to shift the burden to identify privileged and protected  
3 documents from the producing party to the receiving party.

4 2. If the producing party determines that a document produced, or part thereof, is subject to a  
5 privilege or privileges, the producing party shall give the receiving party notice of the claim of  
6 privilege (“privilege notice”).

7 3. The privilege notice must contain information sufficient to identify the document including,  
8 if applicable, a Bates number as well as identification of the privilege asserted and its basis.

9 4. Upon receiving the privilege notice, if the receiving party agrees with the privilege assertion  
10 made, the receiving party must promptly return the specified document(s) and any copies or destroy  
11 the document(s) and copies and certify to the producing party that the document(s) and copies have  
12 been destroyed. The receiving party must sequester and destroy any notes taken about the document.  
13 If a receiving party disclosed the document or information specified in the notice before receiving  
14 the notice, it must take reasonable steps to retrieve it, and so notify the producing party of the  
15 disclosure and its efforts to retrieve the document or information.

16 5. Upon receiving the privilege notice, if the receiving party wishes to dispute a producing  
17 party’s privilege notice, the receiving party shall promptly meet and confer with the producing party.  
18 The document(s) shall be sequestered immediately upon receiving the privilege notice and not be  
19 used by the receiving party in the litigation (e.g. filed as an exhibit to a pleading; used in deposition)  
20 while the dispute is pending. If the parties are unable to come to an agreement about the privilege  
21 assertions made in the privilege notice, the receiving party may make a sealed motion for a judicial  
22 determination of the privilege claim.

23 6. Pending resolution of the judicial determination, the parties shall both preserve and refrain  
24 from using the challenged information for any purpose and shall not disclose it to any person other  
25 than those required by law to be served with a copy of the sealed motion. The receiving party’s  
26 motion challenging the assertion must not publicly disclose the information claimed to be privileged.  
27 Any further briefing by any party shall also not publicly disclose the information claimed to be  
28 privileged if the privilege claim remains unresolved or is resolved in the producing party’s favor.

7. If a document must be returned or destroyed as determined by the process above, that document, along with copies and notes about the document, that exist on back-up tapes, systems, or similar storage need not be immediately deleted or destroyed, and, instead, such materials shall be overwritten and destroyed in the normal course of business. Until they are overwritten in the normal course of business, the receiving party will take reasonable steps to limit access, if any, to the persons necessary to conduct routine IT and cybersecurity functions.

**IT IS SO STIPULATED**, through Counsel of Record.

1 **IT IS ORDERED** that the forgoing Agreement is approved.

2  
3 Dated: September 30, 2025

  
UNITED STATES MAGISTRATE JUDGE  
HONORABLE SALLIE KIM

1 Date: September 29, 2025

Respectfully submitted,

2 /s/ Emilou Maclean

BRETT SHUMATE  
Assistant Attorney General

3 Emilou MacLean  
Michelle (Minju) Y. Cho  
Amanda Young

YAAKOV M. ROTH  
Deputy Assistant Attorney General

4 ACLU FOUNDATION OF NORTHERN  
CALIFORNIA

WILLIAM H. WEILAND  
Acting Assistant Director

5 Jessica Karp Bansal  
6 Lauren Michel Wilfong (Admitted *Pro Hac*  
7 *Vice*)  
8 NATIONAL DAY LABORER ORGANIZING  
NETWORK

ERIC SNYDERMAN  
LAUREN BRYANT  
CATHERINE ROSS  
JEFFREY HARTMAN

9 Ahilan T. Arulanantham  
CENTER FOR IMMIGRATION LAW AND  
POLICY, UCLA SCHOOL OF LAW

SHELBY WADE  
ILANA KRAMER  
Trial Attorneys

10 Eva L. Bitrán  
11 Diana Sánchez  
12 ACLU FOUNDATION OF SOUTHERN  
CALIFORNIA  
13 Erik Crew (Admitted *Pro Hac Vice*)  
HAITIAN BRIDGE ALLIANCE

/s/ Daniel M. Cappelletti

DANIEL M. CAPPELLETTI  
Trial Attorney  
U.S. Department of Justice, Civil Division  
Office of Immigration Litigation  
P.O. Box 868 Ben Franklin Station  
Washington, D.C. 20044

14 *Attorneys for Plaintiffs*

*Counsel for Defendants*

17 **SIGNATURE ATTESTATION**

18 Pursuant to Civil Local Rule 5-1(i)(3), I hereby attest that each of the other Signatories have  
19 concurred in the filing of this document.

20 /s/ Daniel Cappelletti

21 Daniel Cappelletti  
22 Counsel for Defendants  
23  
24  
25  
26  
27  
28